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SUBJECT: GOS DRAFTS LABOR CODE PROPOSAL; FOREIGN INVESTORS
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¶1. (SBU) Summary. The GOS has prepared a draft labor code proposal, which it hopes to finalize and introduce in Parliament next month. The proposal contains numerous pro-worker changes that domestic and foreign investors will fight strenuously. While priorities differ among employers, American investors have expressed most concern about provisions regarding overtime, restrictions on contract employment, and broadly increased union rights. To weigh in on the issue, the Embassy organized a February 9 lunch between US companies and Minister of Labor Viera Tomanova and will conduct follow-up activities. Labor code reform is a priority of Prime Minister Robert Fico and will almost certainly be enacted in some form; Embassy efforts will focus on removing the most potentially damaging proposed amendments.

Provisions

¶2. (SBU) On February 7, the Ministry of Labor published its long-awaited draft labor code, giving stakeholders until February 28 to comment. The draft will then be finalized and sent to Parliament in March. To complicate matters, MOL only published key "debatable" sections; most of the 100-plus changes are not publicly available, but can be attained through friendly Ministry sources. Most proposed amendments clearly favor workers and labor unions, whose influence was dramatically reduced in the current labor code, enacted in 2003 (see reflet for background on Slovakia's labor code). Not all the changes are objectionable - many have the effect of harmonizing Slovak labor law with U.S. law and/or ILO standards. Others harmonize Slovak law with EU directives. Several proposed changes extend beyond international commitments, however, and would limit employer flexibility or impose costs that concern US investors. These amendments include but are not limited to:

- Restrictions on Individual Contractors: Several amendments attempt to improve the position of contract employees, who enjoy few benefits or work protections. The GOS draft dramatically over-corrects the problem by mandating full benefits for most contract employees and suggesting that all long-term contract employees must be converted to full employee status. While there is debate among employers about how restrictive the language really is, service-based companies such as Hewlett Packard, Dell, and IBM are very concerned that the language significantly affects their ability to do business in Slovakia.

- Overtime and Stand-by: Maximum allowable overtime hours per year are reduced from 250 to 150 per year, and hours on stand-by are counted as regular working hours. The draft also introduces cumbersome bureaucratic procedures for approving overtime hours. GOS draft language is based on EU

directives, but the applicable directives do not mandate the specific language chosen by the GOS. US Steel and Getrag-Ford have voiced strong objections to these amendments.

- Increased Union Rights: Under the current labor code, employers do not have to reach binding agreements with unions or worker associations on anything, and no meaningful dispute resolution mechanisms exist. The GOS draft restores unions to prominence, but does so in a clumsy and unworkable manner, granting unions the right to "co-decide" workplace standards without any means of resolution when agreement is not reached. Also, one provision grants workers the right to unilaterally shut down the workplace if safety standards are allegedly unmet, even before regulators can make a determination.

- Data Privacy: Language in the preamble, loosely guided by EU directive, suggests that employers have no jurisdiction over use of phone and e-mail in the workplace.

- Sick Leave: The draft would double available paid sick leave time.

Actions and Strategies

13. (SBU) Ever since the current government assumed power in June 2006, the Embassy has anticipated a coming confrontation between employers and the GOS on the labor code. (Note: In late 2006, the Embassy held a series of meetings with MOL officials and Smer MPs that emphasized maintaining labor code flexibility to hire/fire employees, and keeping the 48-hour work week. Encouragingly, the labor code draft does not change core language on those points. End Note.) In advance of MOL's release of its draft labor code, we organized the

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February 9 lunch at the Ambassador's residence between Minister Tomanova and key AmCham member companies, including US Steel, Hewlett Packard, Dell, Getrag Ford, AT&T, and IBM. The meeting was cordial, but did not dig deeply into problem issues. US companies are now busy drafting their comments to MOL in advance of the February 28 deadline.

14. (SBU) During the next two weeks the Embassy will meet with key MOL officials and Smer MPs to encourage them to remove the most problematic sections of the draft law before it is officially introduced in March. Since we expect that results from these efforts will be limited, the Embassy will also engage HZDS, encouraging them to press their coalition partners to maintain a flexible labor code -- both before and after the legislation is introduced in Parliament. Parliamentary committees meet on the week of March 13 and the next full session begins March 20. PM Fico has set a goal for Parliament to pass a new labor code during this session, so time is of the essence.

VALLEE